

SANTA MONICA BAY RESTORATION COMMISSION
MINUTES OF THE MEETING OF THE GOVERNING BOARD

December 19, 2013

Del Rey Yacht Club

Welcome and Introductions

At 9:37 a.m. Chair Micheál O'Leary called the meeting to order.

1. Public Comment

Patricia McPherson, representing Sierra Club and Grassroots Coalition, referred to a recent County Board of Supervisors meeting and said the County Board set aside a vote of approval, seeking clarification, on water resource development money to be used for a 408 permit to remove levies on Ballona Wetlands. McPherson also distributed a document of email conversations regarding this issue.

Jeanette Vosburg from Grassroots Coalition directed members to become acquainted with the brochure McPherson distributed, regarding the permit and public process.

John Davis complained about the time allotted to speakers. Davis also challenged the legitimacy of the executive director (ED) of the SMBRC and spoke about the ED being an SMBRC agent with failure to disclose her salary and disclose withdrawal of an EIR/EIS with Army Corps of Engineers.

Peter Glick, vice-commodore of the Marina Del Rey Yacht club and commodore-elect of the Association of Santa Monica Bay Sailing Foundation, welcomed all attendees. Glick spoke about the Los Angeles Regional Water Quality Control Board (RWQCB)'s copper reduction of 5% plan, which includes a prohibition of copper based paint from boaters in Marina Del Rey harbor, and asked the SMBRC to request RWQCB for a delay of the implementation until a site specific study TMDL of toxic pollutants is made. Glick mentioned the copper in Marina Del Rey does not affect the bay and cited lack of scientific studies, while asserting that the plan will have an economic impact of \$4,000 to \$10,000 per boat.

2. Informational Items

a) Order of Agenda

The order of agenda was unchanged.

b) Reports from the Chair and Executive Committee (EC)

Sarah Sikich reported on the last EC meeting. Sikich said Shelley Luce reported that staff posted data on water quality at the Malibu Lagoon six months ahead of schedule and invited members to check the data online. Sikich also reported that the EC discussed agenda items before the meeting today, including a discussion of the Bay Restoration Plan (BRP).

c) Report from the Technical Advisory Committee (TAC)

Richard Ambrose reported that the most recent TAC meeting focused on the BRP. Ambrose also spoke on a report from a committee of the Ocean Science Trust's MPA Monitoring Enterprise that he is part of, designed for best practices on the use, expert judgment when evaluating ecosystem conditions, and said that the last State of the Bay Report Card was used as a case study for the report. The report provides a guide for evaluations when quantitative data are insufficient.

d) Reports from the Executive Director (ED) and Staff

Luce proposed to forgo this report and move to the rest of the agenda items.

Public Comment

John Davis said the ED is an impostor of the SMBRC and the EC. Davis questioned Luce's authority and said the SMBRC entered into an agreement and with Army Corps over the Ballona Wetlands and that it was rescinded by Luce and that SMBRC now owes three million dollars to the Army Corps.

Patricia McPherson said millions of federal and state dollars were spent, including \$25 million for which there is no accountability. McPherson also said there is a plan description produced by staff that was part of the Army Corps application

and said there is no alternative plan for Ballona as a seasonal freshwater wetland, and that water is taken from Playa Vista with no hydrology studies. McPherson also stated that this agency has also covered up illegal drainage happening at Ballona.

Jeanette Vosburg said the 408 permit on Ballona shouldn't go forward.

3. Governing Board Business Items

a) Consideration of Approval of the August 15, 2013 Meeting Minutes

Public Comment

John Davis said the minutes are not signed nor there is an audio record of it; Davis said this is done to hide evidence and commit fraud.

Patricia McPherson asked that the documents provided by her today be part of the record. McPherson said the documents provided in the past didn't get to the GB as part of the body of the record.

Suzanne Goode asked for a correction on part of the minutes, where it mentions "Prop 84" should be read as "Prop A"

The minutes were approved as amended (M: Sibert, S: Diamond)

b) Consideration of Approval of the Bay Restoration Update

Shelley Luce invited members to bring substantive points for discussion. Grace Chan commented on milestone 10.1.a regarding updating information on deep canyon habitat and asked that her agency be a partner and have SMBRC and SCCRWP as co-leads. Fran Diamond referred to an item that needed correction, on page 6 of the summary, on the issue of onsite water disposal systems under milestones number 1.7., specifically the comments by the City of Malibu regarding hundreds of WDRs that have never been issued. Diamond said the record shows that they have 84 active WDRs for restaurants, small, commercial, and multi-family properties, and 27 pending requests or applications for WDRs that still need to be worked on; rather than the incorrect notes about hundreds of non-issued WDRs. Bob Godfrey said there was no mention of TMDLs related to the reduction of copper in the marina and considered this issue as a poor effort with low payout. Guangyu Wang said it is not explicit in the plan. Luce said our role is to be supportive once a TMDL is adopted.

John Sibert considered important to have an advocacy position when it comes to best practices, with issues like parking lots and roadways, and to bring these issues to the attention of agencies like Caltrans, State Parks, other commissions, etc. Sibert said some agencies get exceptions that cities don't get. Luce said the staff is working with large land owners and said that staff has not have much success working with Caltrans and asked for help from board members. Sibert echoed this request. Fran Spivy-Weber said the State Water Board has not voted on the Caltrans storm water permit, but that working with Caltrans has been ongoing for almost two years to find a way for Caltrans to do what needs to be done. She stated that an agreement is very close, having John Bishop and Caltrans work together. Susan Nissman echoed this sentiment and also spoke about emphasis on integration of multi-jurisdictional agencies, of these agencies working with SMBRC and SMBRC with them. Nissman also asked whether Caltrans could become a member of the SMBRC.

Andrea Kune mentioned that Assembly member Richard Bloom was appointed to the Transportation Committee and that they had a fantastic and effective relationship with Caltrans and that they could be a strong advocate on Caltrans issues. Ann Notthoff spoke about an update to the Coastal Conservancy strategic plan to include an explicit climate change overlay on projects they review, and said Caltrans having a seat on the Coastal Commission is familiar with coastal planning issues. Dennis Washburn said SMBRC could tap into resources from the Southern California Association of Governments, because they have money, resources, and authority to deal with issues of this nature.

Public Comment

John Davis referred to the Bagley-Keene act intent to benefit the speakers not the amount of agenda items. Davis also said the Inspector General has been alerted and a formal complaint has been filed about EPA money going to a private business instead of a State treasury account where it should go.

Frances McChesney, State Water Board Legal Counsel, clarified that under State law the SMBRC was created to implement the National Estuaries Program for this bay and also that the US Environmental Protection Agency (EPA) implements this program by issuing grants to agencies. She said that federal laws and the Clean Water Act allow the US EPA to issue grants to non-profit organizations to implement the National Estuaries Program. McChesney said the US EPA has issued a grant to the Foundation to provide staff to the SMBRC (the Commission) and that all staff are legally paid. McChesney also said that if the Legislature appropriates funds those funds go into a State fund and are implemented by the Commission. She stated

that the Commission doesn't have direct money of its own, and that any funds for Commission related activities are thru grants from various agencies.

Patricia McPherson spoke about the restoration of Ballona and said that there is a request from staff to the County to get a priority listing for Ballona to have its levies removed using County funds for flood control. She said the public paid \$140 millions to restore Ballona, of which \$25 million was for an EIR and the rest for restoration, and that there is no accountability for these funds.

Jeanette Vosburg said she has a feeling that the Commission avoids public interest on the issue of Ballona. Vosburg said she didn't understand why it applied for a 408 permit.

The BRP was approved unanimously (M: Washburn , S: Sibert)

c) Election of Watershed Advisory Council Members to the Governing Board (GB)

Scott Valor introduced this agenda item, for the election of one Utilities/Industry/Business position, the election of two Environmental/User Group positions, and the election of three At-Large positions to the SMBRC GB. Before the voting for each vacancy Valor opened the floor for additional nominations.

For the Utilities/Industry/Business position, a contested position, Valor announced the two candidates nominated: Brash Industries (represented by Marvin Sachse) and Chevron (represented by Rod Spackman). Both Sachse and Spackman introduced themselves and their involvement with the Commission and the bay. Staff distributed ballots. Staff counted the ballots and the result was announced: by a majority of votes the GB elected Brash Industries (Sachse) for the Utilities/Industry/Business position.

For the two Environmental/User Group positions the nominated organizations were: Heal the Bay (represented by Sarah Sikich) and Los Angeles Waterkeeper (represented by Liz Crosson). Since these were not contested positions, two candidates for two positions, the GB approved them by acclamation.

For the three At-Large positions, the nominations were: The Santa Monica Mountains RCD (Dennis Washburn), West Basin MWD (Ron Smith), and Marina Del Rey anglers (Robert Godfrey). These nominated organizations, not being contested, were also approved by the GB by acclamation.

Public Comment

John Davis said the election of members constitutes fraud. Davis said this will be reported to the US Inspector General as well. Jeanette Vosburg said Chevron has a conflict of interest, and that if any one deserved seating at this board it would be the Grassroots Coalition or Sierra Club.

d) Consideration of Approval of Vermont Avenue Storm Water Capture and Green Street Project

Shelley Luce introduced this agenda item. Luce said the City of Los Angeles, in collaboration with Heal the Bay and other groups, has been developing a multi-benefit green street project that includes converting a wide median on Vermont Avenue into a greenway, which includes innovative storm capture, treatment, and possible reuse management practices. Luce said the SMBRC is very familiar with this project, being on the list of priority projects presented in the past. Luce said the City and partners have been working hard to improve the treatment per dollar on the project. Luce said the EC supported this project at the last meeting, recommending one million dollars from Prop 84 for this project to improve water quality and decrease storm water runoff. Sachse said the BMPs could have been implemented in Marina Del Rey, and said we need to make sure BMPs are in on this project, like water going into the median as opposed to around it, and wondered if SMBRC can be involved in the oversight of this. Luce replied that she and staff are very satisfied with the BMPs and that the TAC reviews the BMPs with new monitoring plans, and that staff makes site visits before, during, and after. Nissman commented that this project exemplifies the type of project they look for.

James Alamillo from Heal the Bay spoke in support of this project to bring the street idea to south of Los Angeles and to actively engage the community. Susie Santalena, from the City of LA Watershed Protection Division thanked SMBRC, the EC, and staff for their work. Santalena said the TAC comments were incorporated into the project, such as enhanced monitoring plans and public response. Sarah Sikich reiterated this and said they are looking forward to data that this project will provide and stated that they support green streets and LIDs throughout Los Angeles. Jim Knight asked whether these funds are restricted. Luce replied that funds are very restricted and cited agreements between RWQCB and the City of LA with strict requirements for reimbursement. Sachse asked when the project will be completed. Enrique Zalvidar's staff confirmed that the project will be completed by 2016. Matt Petersen asked what other sources are used to fund this project. Zalvidar replied that the project not only has multiple benefits but multiple funding sources: Prop O, MTA, IRWMP, and

Prop 84. Washburn asked whether the 51,000 cubic feet of runoff are per hour or other measure. Zaldivar said the catch basin is roughly 37 acres. Washburn said it seems like a more ambitious project than the number or the description indicates. Washburn also said that water of this magnitude in an urban environment can be put to good use by purifying it and using it for service like emergency water that can last 50 years or more. O'Leary echoed the sentiment of reusing water but mentioned the challenge of storing it and urged the use of creative ways to capture, store it, and re-use it.

This item was approved without objection (M: Nissman, S: Washburn).

e) Consideration of Approval of 2014 Governing Board Meeting Calendar

The 2014 meeting calendar was approved with no changes (M:Zalidvar , S: Nissman)

f) Member Comment—Governing Board members may wish to comment on issues not otherwise on the agenda

Sibert commented on the success in addressing the berm at the Malibu Lagoon opening to the west, an effort among Beaches and Harbors, the County, State Parks, the Coastal Commission, and Surfrider, that includes grooming the berm so that when it opens it does not cause damage. Sibert mentioned John Kelly, Nissman, Michael Blum, and others as instrumental for making it happen. Nissman recognized Nancy Hastings and Michael Blum for great work and research. Nissman urged Kelly to get permanent permits. Kelly and other members praised the collaboration on this effort.

Sikich said today is the birthday of the Statewide Network of Marine Protected Areas who has played a key role making sure MPA are here in Los Angeles. Sikich also announced a sea level rise workshop by the LA Regional Collaborative for Climate Action and Sustainability on January 7th. Liz Crosson acknowledged a letter received from Walter Lamb about concerns about an MOU with the Annenberg regarding Ballona Wetlands Area C. Crosson said she shares some of the concerns, especially the pet adoption facility and the delay of the DER, and asked if it can be agendized or discussed. Sibert commented on the Coastal Cities Issues Group, with representatives from 65 coastal cities in CA, and that it is important to be there because they discuss issues like sea level rise. Knight offered to share his city's prior experience with the Annenberg Foundation.

Mark Pestrella spoke to clarify public comments earlier regarding the County Board meeting and a 408 permit. Pestrella said the County Board of Supervisors was not considering a 408 permit but an MOA between the County of Los Angeles Flood Control District and the Army Corps of Engineers to engage and allow the County to pay for resources to be brought to bear by the Corps to review potential projects in the planning stage, which are multiple, and that 408 is a requirement for a project that comes later. Pestrella said any federally built structure/infrastructure, in this case levies, funded by the federal government requires that the permit be pulled to alter that project, so Ballona specifically has levies and any time an alteration to that, whether the Corps maintains them or not, federal law requires engagement in a permit process with the Corps. Pestrella said this permit is not proposed at the moment but it is foreseeable because it will be required in the process. Pestrella wanted to make clear that funds from LA County Flood Control were sought for the purpose of preliminary planning on a number of projects with the Corps of Engineers, and said this is the way of the future working with federal and state agencies, having to pay for planning efforts and focus and allow local agencies to put projects on the radar. Pestrella said the public at the meeting were essentially saying they are in love with the levy system at Ballona. The way Flood Control sees it is a proposal for Ballona that could provide multiple benefits, including habitat restoration as well as potential pollution control and are seeking to engage with the agencies and one agency has to be engaged and be focused - the Army Corps - to be able to do anything in the Ballona. Pestrella said it is not in any way a permit or condoning a project but a preliminary way to get in and get focus, and that the County has to take action on the project eventually. Pestrella said the County testimony was not clear at the meeting, but told SMBRC if they have questions to please contact them.

Godfrey asked for a final version of the BRP once it is updated and published. Luce said an updated matrix will be provided. Sachse thanked the SMBRC for their vote. Zaldivar reminded board members about the plastic bag ban coming January 1st. Ron Smith referred to Lamb's letter received by GB members and considered it beneficial to get a more comprehensive understanding of the issued on the letter. Washburn reminded all that the work done by SMBRC improves the quality of life of people served. Washburn reminded members to not overlook the reasons for work done. Washburn mentioned the passing away of Charlie Cooke and his legacy. Washburn also recommended reading Outdoor Magazine. Washburn asked to agendize the beneficial re-use of water in a future agenda. Laurie Newman thanked everyone for attending the 25th Anniversary Event.

g) Announcement of Next Meeting Date

The next Governing Board meeting is set for February 20, 2014 at 9:30 am.

Adjournment

Meeting adjourned at 11:21 a.m.

Attendance***Voting Members of the Governing Board:***

Dayna Bochco, California Coastal Commission
Charles Caspary, Las Virgenes Municipal Water District
Grace Chan, LA County Sanitation Districts
Liz Crosson, Los Angeles Waterkeeper
Fran Diamond, California Regional Water Quality Control Board, Los Angeles
Robert Godfrey, At-Large Member (Marina Del Rey Anglers)
Suzanne Goode, California Department of Parks and Recreation
John Kelly, LA County Department of Beaches & Harbors
Jim Knight, South Bay Cities (City of Rancho Palos Verdes)
Dan Murphy, LA County Fire Department, Lifeguard Division
Susan Nissman (alternate to Zev Yaroslavsky), LA County Board of Supervisors (Supervisor, 3rd District)
Ann Notthoff, California State Coastal Conservancy
Micheal O'Leary, SMBRC Chair, Ballona Creek Watershed Cities (Culver City)
Mark Pestrella, LA County Dept of Public Works
Matt Petersen, City of Los Angeles, Office of the Mayor
Marvin Sachse, Brash Industries
John Sibert, Malibu Watershed Cities (City of Malibu)
Sarah Sikich, Public Member/Environmental, Heal the Bay
Ron Smith, At-Large Member, West Basin MWD
Fran Spivy-Weber, California Environmental Protection Agency
Dennis Washburn, At-Large Member BWC (RCD, Santa Monica Mountains Region)
Enrique Zaldivar, Los Angeles City Public Works, Bureau of Sanitation

Non-Voting Members of the Governing Board:

Richard Ambrose, Technical Advisory Committee, Chair
Andrea Kune, Assemblymember Richard Bloom, 50th District
Timothy Lippman, Assemblymember Al Muratsuchi, 66th District
Laurie Newman, The Bay Foundation, President
Jennifer Zivkovic, State Senator Ted Lieu, 28th District

Commission Staff:

Carrie Baldwin
Julie Du Brow
Tom Ford
Shelley Luce
Scott Valor
Marcelo Villagomez
Guangyu Wang

State Water Board Staff:

Frances McChesney, SWRCB Legal Counsel

Other Attendees, including other Bay Watershed Council Members:

Michael Blum, Malibu Surfing Association
Steven Clark, RCD of SM Mountains
John Davis
Cesary Espinoza, LA County B&H
David, LVMWD
Nancy Hastings, Surfrider Foundation
TJ Moon, LA County
Ellen Perkins, South Bay Cities, Palos Verdes Estates
Patricia McPherson, Grassroots Coalition, Sierra Club
Damian Skinner, Culver City - SWCCOG
Rod Spackman, Chevron
Jeanette Vosburg, Grassroots Coalition